

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 7478 of 2001

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Order:

The petitioner was appointed as Conductor in the respondents-APSRTC on 25.11.1973. At the time of his joining into service, the date of birth of the petitioner, namely 08.02.1946, as reflected in the Higher Secondary School Certificate, School Leaving Certificate and Pre-University Certificate, produced by him, was entered in the Service Records. Now, it is the grievance of the petitioner that his actual date of birth is 08.02.1948, and on realizing that his date of birth was wrongly entered in the Service Register as 08.02.1946, he made representation to the Divisional Manager, Nizamabad, who in turn addressed letter to the Head Master, Zilla Parishad High School, Mupkal, to furnish the correct date of the petitioner.

It is the case of the petitioner states that though the Head Master, Zilla Parishad High School, Mupkal, certified that his date of birth is 08.02.1948, yet the Divisional Manager addressed another letter to the Principal, Giriraj Government Arts College, Nizamabad, and based on the information provided by the Principal, Giriraj Government Arts College, Nizamabad, the Personnel Manager in the Office of the Regional Manager, Nizamabad, issued proceedings dated 27.12.2000, confirming that the date of birth of the petitioner as 08.02.1946 for all official purposes.

Assailing the said proceedings the petitioner filed the present writ petition. During the pendency of the writ petition, when the respondents-APSRTC based on his date of birth as 08.02.1946, issued Retirement Notification dated 01.09.2003, retiring him from service w.e.f. 29.02.2004, he filed W.P.M.P. No. 29033 of 2003 seeking amendment of the prayer, and in pursuance of the orders dated 07.11.2003 passed therein, the petitioner amended the prayer in the writ petition, assailing the Retirement Notification also, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The learned counsel for the petitioner submits that at the time of joining into service, the date of birth of birth of the petitioner, namely 08.02.1946, as reflected in the Higher Secondary School Certificate, School Leaving Certificate and Pre-University Certificate, produced by the petitioner, was entered in his Service Register. The petitioner on realizing that his date of birth was wrongly entered, and in fact, his date of birth is 08.02.1946, made representation to the Divisional Manager, Nizamabad, who in turn addressed letter to the Head Master, Zilla Parishad High School, Mupkal, who upon verifying the records stated that the date

of birth of the petitioner is 08.02.1948. He submits that in spite of the Head Master, Zilla Parishad High School, Mupkal, confirming that the date of birth of the petitioner is 08.02.1948, yet the Divisional Manager, Nizamabad, sought verification from the Principal, Giriraj Government Arts College, who stated that his date of birth of the petitioner is 08.02.1946. He submits that the actual date of birth of the petitioner is 08.02.1948 and not 08.02.1946, and this is evident from the Certificate issued by the Board of Secondary Education, Transfer Certificate and Bonafide and Date of Birth Certificate, issued by the Head Master, Zilla Parishad High School, Mupkal, Nizamabad District, but the respondents-APSRTC in stead of placing reliance on the said authenticated certificates and rectifying his date of birth as 08.02.1948, based on the information furnished by the Principal, Giriraj Government Arts College, have issued proceedings dated 27.12.2000 treating the date of birth of the petitioner as 08.02.1946 for all official purposes, and based on such proceedings, Retirement Notification dated 01.09.2003, retiring the petitioner from service w.e.f. 29.02.2004, which is illegal and arbitrary.

The Law Officer of the respondents-APSRTC filed detailed counter and also produced the entire Service Record of the petitioner, which contains the original certificates produced by the petitioner at the time of his entry into service.

The learned Standing Counsel reiterating the counter-averments submitted that the date of birth of the petitioner (08.02.1946), as reflected in the educational certificates, namely Pre-University Certificate and Transfer Certificate, produced by him, was entered in the Service Register. Though the Head Master, Zilla Parishad High School, Mupkal, issued Date of Birth Certificate stating that the date of birth of the petitioner is 08.02.1948, yet a letter was addressed to the Principal, Giriraj Government College, who upon verifying the Admission Register, reported that the date of birth of the petitioner is 08.02.1946. As the date of birth furnished by the Principal, Giriraj Government College, matched with the one entered in the Service Register, the petitioner was informed that his date of birth for all official purposes shall be 08.02.1946. Accordingly, based on the said date of birth, the respondents issued Retirement Notification, and no exception can be taken thereto, and more so the date of birth as entered in the Service Register, is binding on the petitioner.

In the light of the arguments advanced, the only question that arises for consideration in the writ petition is whether the date of birth of the petitioner as entered in the Service Register is 08.02.1946 or 08.02.1948 as contended by him?

The petitioner at the time of his entry into service, admittedly, did not produce the Certificate issued by the Board of Secondary Education, based on which he contends that his date of birth is 08.02.1948. This is evident from the fact that when the Divisional Officer, Karimnagar Division, vide call letter dated 15.05.1973, called upon the petitioner to produce the original certificate, the petitioner produced original Memorandum of Marks of Pre-University (Science) Examination, March, 1966 and original Leaving Certificate issued by the Principal, Giriraj Government Arts College, Nizamabad. In the said two original certificates, submitted by the petitioner, the date of birth of the petitioner is mentioned as 08.02.1946. The petitioner, in the

declaration given by him in Form – A at the time of his entering into service, declared that his date of birth is 08.02.1946. The date of birth, as declared by the petitioner in Form - A and reflected in the said two original certificates, was shown in the office orders, issued by the respondents appointing several persons, including the petitioner as Conductors, and even though orders were communicated and served on the petitioner, the petitioner neither raised any objection nor disputed the entry of his date of birth, as 08.02.1946, as mentioned in the appointment orders.

Though the Certificate of the Board of Secondary Education, certifying that the petitioner had passed Higher Secondary Certificate Examination, indicates that it was issued on 25.07.1965, the fact remains that the petitioner did not produce this certificate at the time of his joining the service of the respondents in 1973, and it is not known why the petitioner did not produce the said certificate at that point of time. Be that as it may, the date of birth of the petitioner, as stated supra, was entered in the service records on the basis of the declaration given by him, which is supported by the Memorandum of Marks of Pre-University (Science) Examination, certificate and School Leaving Certificate, issued by the Principal, Giriraj Government Arts College, Nizamabad, produced by him. As per Regulation 19(1) of the APSRTC Employees' (Service) Regulations, 1964, every person on entering the service of the Corporation shall declare his date of birth which shall not differ from any declaration, express or implied, made by him for any public purpose before entering such service, and for the said purpose, the date of birth as recorded in a school or college certificate shall be adopted without any modification. The petitioner does not dispute the fact that his date of birth, as reflected in the original educational certificates produced by him, was reflected in the service records. The date of birth of the petitioner having been entered by the respondents based on the educational certificates, namely Memorandum of Marks of Pre-University (Science) Examination, certificate and School Leaving Certificate, issued by the Principal, Giriraj Government Arts College, Nizamabad, produced by himself, as provided for under Regulation 19(1) of the APSRTC Employees' (Service) Regulations, 1964, now cannot be heard to say that the date of birth as entered in the Service Register is wrong, and that his date of birth should be corrected to the one as reflected in the Certificate issued by the Board of Secondary Education, and more so when he failed to produce the same at the time of his joining the service.

Be that as it may, in 1984 when the respondents-APSRTC required personal information from its employees, the petitioner filled the Personal Data Sheet – January, 1984 on 10.05.1984. As per the information provided by the petitioner therein, at Column No. 6, he mentioned his date of birth as 08.02.1946. If really the date of birth, as mentioned in the Service Register was wrong, nothing prevented the petitioner from filling his correct date of birth in the Personal Data Sheet – January, 1984 on the basis of the date as entered in the Certificate dated 25.07.1965, issued by the Board of Secondary Education. It is not that the petitioner is an illiterate and that he does not know his date of birth. The petitioner is a literate man, and he having completed Pre-University Course, cannot be heard to say that he does not know his date of birth and that he is not aware of his correct date of birth, and more so by the date when he joined the service of the respondents in 1973 and when he

had filled the Personal Data Sheet – January 1984, the Certificate dated 25.07.1965 issued by the Board of Secondary Education was with him.

Though the petitioner contends that that the Head Master, Zilla Parishad High School, Mupkal, where he studied had issued certificate stating that his date of birth is 08.02.1948, and as such, the respondents ought to have rectified the mistake, the fact remains, the petitioner obtained such certificate in 1993, and at the time of joining the service of the respondents, the petitioner did not produce any school certificates, but produced the college certificates, namely Pre-University Course (Science) Examination, March, 1966 and Leaving Certificate issued by the Principal, Government Arts College. As at the time of joining the service, the petitioner did not produce any school certificates, the respondents did not give any credence to the certificate issued by the Head Master, Zilla Parishad High School, Nizamabad, and got the date of birth of the petitioner verified from the Principal, Giriraj Government Arts College, who upon verifying the records, reported that the date of birth of the petitioner is 08.02.1946, and based on such confirmation, the Personal Officer of the respondents vide orders 27.12.2000, confirmed the date of birth of the petitioner as 08.02.1946, as evident from the certificates produced by the petitioner and as entered in the service records, for all official purposes, and no exception can be taken thereto. Inasmuch as the date of birth of the petitioner was confirmed as 08.02.1946 for all official purposes, the respondents taking the said date, computed the age of superannuation of the petitioner and arrived the date of his superannuation as 29.02.2004, and accordingly issued the Retirement Notification dated 01.09.2003, which in no manner can be said to be illegal or arbitrary.

For the foregoing reasons, the writ petition is devoid of merit, and the same is accordingly dismissed.

N.V. RAMANA, J.

Date: February, 2006.

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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